90-1316

Supreme Court, U.S.
FILED
DEC 27 1990
JOSEPH F. SPANIOL, JR.

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

CAROLYN PRATT PERRY,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Carolyn Pratt Perry,
Petitioner
Acadian Centre
Suite 420
2431 So. Acadian Thruway
Baton Rouge, LA 70808
(504) 928-6898
In Proper Person

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

CAROLYN PRATT PERRY,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Carolyn Pratt Perry,
Petitioner
Acadian Centre
Suite 420
2431 So. Acadian Thruway
Baton Rouge, LA 70808
(504) 928-6898
In Proper Person

QUESTION PRESENTED

This case presents a single question of federal law, one that affects millions of tax payers, that is based on undisputed facts, and that has split the Court of Appeals in dicta or legal theory:

Does the Internal Revenue Code give the Internal Revenue Service the unilateral right to deny a valid deduction for money designated for and actually spent for support (child support and/or alimony), and, thus, allow the Internal Revenue Service to receive double taxation on those designated funds and to reap a windfall, when a former spouse fails to pay court ordered support?

TABLE OF CONTENTS

QUESTION PRESENTED.....i

TABLE OF AUTHORITIES.....iv

OPINIONS BELOW.....2

JURISDICTION.....3

FEDERAL STATUTES INVOLVED.....3

STATEMENT OF THE CASE.....6

Nature of the case.....6

Statement of facts.....12

Procedural history.....14

REASONS FOR GRANTING THE WRIT.....15

I. THE FIFTH CIRCUIT'S DECISION TO DENY A TAXPAYER'S DEDUCTIONS FOR SUPPORT PAYMENTS SHE MADE ON BEHALF OF HER FORMER SPOUSE WITH FUNDS FROM HER OWN CAPITAL ASSETS OR INCOME CONFLICTS WITH THE LEGAL ANALOGY IN A NINTH CIRCUIT COURT OF APPEALS DECISION.....15

II. THE FIFTH CIRCUIT ERRED, AS A MATTER OF LAW, BY ITS CONSTRUCTION OF THE APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE AND WITHOUT REGARD FOR THE INTENT OF CONGRESS.....18

CONCLUSION.....25

APPENDICES.....27

Suggestion for Rehearing En Banc 28

Perry v. Commissioner,
Nos. 89-4845, 89-4848
(5th Cir. 1990) 30

Perry v. Commissioner,
92 T.C. No. 28 (1989) 43

Decision, No. 6507-83 82

Decision, No. 14905-84 83

Decision, No. 15225-84 84

Partial Stipulation to be
Bound, No. 13549-87 85

Order, No. 13549-87 88

Decision, No. 13549-87 89

Perry vs. Perry, No. C-1644,
Fulton Superior Court, Georgia
Final Judgment and Decree 91

TABLE OF AUTHORITIES

CASES PAGE

Cotnam v. Commissioner of Internal Revenue, 263 F.2d 119 (5th Cir. 1959)....17

Imeson v. Commissioner of Internal Revenue, 487 F.2d 319 (9th Cir. 1973).....16, 23, 24

In re Sanderfoot, 899 F.2d 598 (7th Cir. 1990).....10

Iowa Southern Utilities v. United States, 348 F.2d 492 (Ct.Cl.1965).....16, 17, 23

Mandel v. Commissioner, 229 F.2d 328 (7th Cir. 1956).....21

Pearlstein v. Mattes, 199 So. 151 (La. App. 1941).....23

Putnam v. Commissioner, 352 U.S. 82,77 S.Ct. 175, 1 L.Ed.2d 144 (1956).....16

Shirman v. Commissioner, 60 F.2d 65 (2d Cir. 1932).....16

Swenson v. Commissioner, 43 T.C. 897 (1965).....16, 18

United States v. Safety Car Heating and Lighting Co., 297 U.S. 88, 56 S.Ct. 353, 8 L.Ed. 500 (1936).....17

STATUTORY PROVISIONS PAGE

Internal Revenue Code, Sec. 161.....3

Internal Revenue Code, Sec. 165.....3

Internal Revenue Code, Sec. 166.....4

Internal Revenue Code, Sec. 1011.....6

Internal Revenue Code, Sec. 1012.....6

La. Civil Code (1870) Art. 2161.....22

OTHER AUTHORITIES

U.S. Department of Commerce, Statistical Abstract of the United States 89 (1990)...7

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

No. _____

CAROLYN PRATT PERRY,
petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Carolyn Pratt Perry petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Fifth Circuit entered in this case on August 15, 1990, with the petition for rehearing en banc being denied on September 28, 1990.

OPINIONS BELOW

The denial of the rehearing en banc is attached in the appendix ("App.") to this petition. App., p. 28.

The opinion of the Court of Appeals is an unpublished opinion recorded at 912 F.2d 1466 (1990), a copy of which is attached in the appendix to this petition. App., p. 30. The decision of the U.S. Tax Court (Chabot, J.), which the Court of Appeals affirmed is recorded at 92 T.C. 28. App., pp. 82-84.

The decision of the U.S. Tax Court (Chabot, J.), which the Court of Appeals affirmed based on Judge Chabot's opinion at 92 T.C. No. 28, pursuant to the partial stipulation to be bound, the assignment of the case to Judge Chabot, and the decision rendered based on his prior opinion. App., pp. 85-90.

The final judgment and decree rendered by the Superior Court for Fulton County, Atlanta Circuit, Georgia has not been reported. A copy of this final judgment and decree are attached in the appendix. App., pp. 91-110.

JURISDICTION

The Court of appeals entered its denial for a rehearing en banc on September 28, 1990. This Court has jurisdiction to review the judgment of the Court of Appeals under 28 U.S.C. Section 1254(1).

FEDERAL STATUTES INVOLVED

Internal Revenue Code of 1954, Sections in effect for the years in issue.

PART VI - ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

Section 161. Allowance of deductions:

In computing taxable income under section 63, there shall be allowed as deductions the items specified in this part, subject to the exceptions provided in part IX (sec. 261 and following, relating to items not deductible).

Section 165. Losses (in part):

(a) General rule. - There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) Amount of deduction. - For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) Limitation on losses of individuals. - In the case of an individual, the deduction under subsection (a) shall be limited to-

(1) losses incurred in a trade or business;

(2) losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft. A loss described in this paragraph shall be allowed only to the extent that the amount of loss to such individual arising from each casualty, or from each theft, exceeds $100.00 . . .

(d) Wagering losses. - Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) Theft losses. - For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) Capital losses. - . . .

Section 166. Bad debts (in part):

(a) General rule. -

(1) . . .

(b) Amount of deduction. - For purposes of subsection (a), the basis for determining the amount of the deduction for any bad debt shall be the adjusted basis provided in section 1011

for determining the loss from the sale or other disposition of property.

(c) Reserve for bad debts. - . . .

(d) Nonbusiness debts. -

(1) General rule. - In the case of a taxpayer other than a corporation-

(A) subsections (a) and (c) shall not apply to any nonbusiness debt; and

(B) where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 1 year.

(2) Nonbusiness debt defined.- For purposes of paragraph (1), the term "nonbusiness debt" means a debt other than -

(A) a debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer;

(B) a debt the loss from the worthlessness of which is incurred in the taxpayer's

trade or business.

(e) Worthless securities. - . . .

Section 1011. Adjusted basis for determining gain or loss (in part):

(a) General rule. - The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis (determined under section 1012 or other applicable sections of this subchapter . . .

Section 1012. Basis of property-cost (in part):

The basis of property shall be the cost of such property, . . .

STATEMENT OF THE CASE

NATURE OF THE CASE.

This case involves a taxpayer's right to itemized deductions afforded under Sections 161, et seq., of the Internal Revenue Code. The issue is whether petitioner, and millions of other taxpayers similarly situated, is entitled to a deduction when she expended her own capital assets and income to pay for and provide the support specified as her ex-husband's obligation in their final judgment and decree of divorce, because of his failure to make those support

payments.

With its decision, the U.S. Court of Appeals for the Fifth Circuit merely "rubber stamped" prior Tax Court decisions on the grounds that there was no basis in the debts. The Fifth Circuit completely failed to analyze the true nature of the transaction underlying the judgment and the subsequent payments by the petitioner from her capital or income. The payments created the debt or the loss for which she is entitled to a deduction under the Internal Revenue Code. This decision by the Fifth Circuit has created, in dicta or legal theory, at least, a division or conflict with the Ninth Circuit. It involves a question that inevitably affects many of the approximatley 1.2 million divorces granted every year in this country.[1] The Internal Revenue Code can now be and is being used by the Internal Revenue Service to generate a windfall or double

---

[1]U.S. Department of Commerce, Statistical Abstract of the United States 89 (1990).

taxation on the same designated support obligations or funds.

In the case of child support payments, if the ex-spouse fails to provide that support, the Internal Revenue Service receives tax on the full amount of his income. Additionally, the single parent who has custody of the child is forced to go to work to earn additional income to provide the child support for which her former husband is legally obligated, to actually make his support payments from her own income, and the Internal Revenue Service taxes that income, notwithstanding the fact that child support payments, when made to the custodial parent so that she can pay the bills for food, shelter, medical expenses, etc. incurred by the children, are not taxed to the custodial parent.

Alimony payments were treated similarly prior to 1942. In 1942 when Congress passed a significant increase in income taxes, it was concerned that divorced husbands would not have sufficient funds to pay their taxes on their entire income, as well as be able to pay their

alimony; therefore, Congress transferred the tax liability on alimony to the wife, fictitiously treating it as income to her. In the case of alimony, the obligation remains the same as for child support, to provide support (food, shelter, clothing, etc.). As a practical matter both the child support and the alimony payments generally are not paid directly to the landlord, the butcher, or the baker, but are instead paid to the wife or custodial parent for disbursement to the appropriate creditor for these necessities. When an ex-spouse makes an alimony payment, he is entitled to a direct adjustment to his income for those payments, thereby reducing his adjusted gross income and the Internal Revenue Service receives taxes based on that lower tax bracket at a lower rate. If he fails to make those alimony payments, the Internal Revenue Service then receives tax on his full income without that adjustment, and this automatically puts him in a higher tax bracket and at a higher tax rate. On the other hand, if the wife does not receive the alimony

payments, then she must seek state or federal aid to obtain the necessary support, or she must seek additional employment to pay for those items of support which were to be paid by her former spouse. She, likewise, is taxed on this additional income. Therefore, when an ex-spouse fails to make the court ordered alimony payments, the Internal Revenue Service is receiving income tax on all income received by the ex-spouse at a higher rate, and, additionally, is receiving additional income tax on those funds earned as income by the wife to meet these obligations and pay these debts. The result is similar to that noted by Judge Richard Posner in his dissent in In re Sanderfoot, 899 F.2d 598(7th Cir. 1990), in that it is a perversion of tax law that offends the moral sense of laymen by permitting the IRS to manipulate federal tax law to reap a windfall, when a debtor spouse fails to make court ordered support payments on behalf of his children or former wife.

This potential inequity in the IRS and Tax

Court rulings, which hold that these debts were not deductible items, has been recognized and discussed by the Ninth Circuit, in dicta, but was not resolved because in that case the taxpayer had failed to prove the amounts she actually expended to support her children (the "basis"). No other circuit has addressed this issue with the same critical legal analysis. The Fifth Circuit merely rubber stamped the Internal Revenue Service's position and the Tax Court's decision. The issue of whether a taxpayer is entitled to a deduction under the Internal Revenue Code for capital assets or income that she spends to provide the support which her former spouse fails to provide impacts millions of single parents and divorcees throughout the nation on an annual basis. Depending upon her own income, that deduction may be relatively small (equivalent to a winter coat for one of her children) or larger (equivalent to a year's tuition for college for one of her children). In either event the impact is significant. Only this Court, by

resolving the question, can insure certain and equal treatment with appropriate construction of the federal tax law, one which preserves the Internal Revenue Service's right to receive tax on taxable income, and also preserves the tax payer's right to deductions for losses or non-business bad debts without giving the Internal Revenue Service a windfall when a debtor spouse fails to make his support obligations.

STATEMENT OF FACTS.

The facts of this case are undisputed. Petitioner, Carolyn Pratt Perry, married Richard Donald James Perry on November 26, 1966. During the first two and a half years of their marriage she worked as an analytical chemist while he attended college as a full time student. They had two children, a daughter born in 1970, and a son born in 1972. After Mr. Perry was discharged from the Army, he and his family moved to Atlanta, Georgia, where they bought a home. He was employed as a marketing manager for a corporation in Georgia, and she was a

housewife. They were divorced on June 23, 1975, by judgment of the Superior Court of Fulton County, Georgia, which incorporated a property settlement and support agreement. App., pp. 91-110.

In June of 1976, Mr. Perry informed petitioner that he would not make any of the payments under the divorce decree. At that time, petitioner was unemployed and attending school. Petitioner then began a long series of enforcement efforts, including the filing of a complaint under the Uniform Reciprocal Enforcement of Support Act, obtaining a judgment for accrued support payments, obtaining a writ of fieri facias from the Georgia court for child support arrearages in 1979, and obtaining another writ of fieri facias for arrearages in support payments from 1979-1985. However, she did not seek writs of fieri facias for those arrearages labeled in the agreement as "alimony", because she had been advised by counsel that the fieri facias procedure was not available for those payments. Mr. Perry never

made those payments, and therefore, petitioner was forced to spend her own capital assets and income to provide the support for her children and herself mandated as Mr. Perry's obligations by the divorce decree and judgment.

For the tax years 1980, 1981, 1982, and 1984, petitioner claimed deductions for the debts she had actually paid on behalf of her former spouse in the amounts as set out in the divorce decree and judgment.

The Internal Revenue Service disallowed the deduction and served a notice of deficiency.

PROCEDURAL HISTORY.

Petitioner then filed a petition in the U.S. Tax Court for the tax years 1980, 1981, and 1982. These were tried by Judge Herbert L. Chabot, and the matter was taken under advisement. Subsequently, after receipt of the notice of deficiency for the tax year 1984, she filed a petition in the U.S. Tax Court and it was assigned to Judge Chabot for disposition, pursuant to a stipulation to be bound entered

into between petitioner and the Commissioner of Internal Revenue. App., pp. 85-90.

Judge Chabot filed his opinion on March 16, 1989, holding that "petitioner is not entitled to a bad debt deduction for any of the years because she has no basis in any of the debts. Swenson v. Commissioner, 43 T.C. 897 (1965), followed."

The cases were consolidated on appeal to the Fifth Circuit Court of Appeals, and were affirmed without any discussion whatsoever of the analogies and the legal reasoning discussed by the Ninth Circuit Court of Appeals.

REASONS FOR GRANTING THE WRIT

I. **THE FIFTH CIRCUIT'S DECISION TO DENY A TAXPAYER'S DEDUCTION FOR SUPPORT PAYMENTS SHE MADE ON BEHALF OF HER FORMER SPOUSE WITH FUNDS FROM HER OWN CAPITAL ASSETS OR INCOME CONFLICTS WITH THE LEGAL ANALOGY IN A NINTH CIRCUIT COURT OF APPEALS OPINION**

The Fifth Circuit Court of Appeals affirmed the Tax Court's decision that petitioner was not entitled to the bad debt deduction, because she had no basis in any of the debts. It likewise cited the Swenson case,[2] stating that the deduction is limited to debts created by advances out of capital or out of income. It did not address the analogies raised by the Ninth Circuit Court of Appeals,[3] in which the court pointed out that a taxpayer similarly situated to the petitioner's position was arguably more like that of "a taxpayer who pays materialmen's liens on his house after the builder has defaulted. See Martin, 1962, 38 TC 188. . . . that of a guarantor who pays the creditor when the principal debtor defaults: Shirman v. Commissioner, 2 Cir., 1932, 60 F.2d 65; Putnam v. Commissioner, 1956, 352 U.S. 82, 77 S.C. 175, 1 L.Ed.2d 144; Iowa Southern

---

[2]Swenson v. Commissioner, 43 TC 897 (1964).

[3]Imeson v. Commission o Internal Revenue, 487 F.2d 319, at 320 (9th Cir. 1973).

Utilities v. United States, Ct.Cl. 1965, 348 F.2d 492,172 Ct.Cl. 21."

To date no court has properly addressed the true nature of the obligation to provide child support and/or alimony. In fact, by failing to do so the Fifth Circuit Court of Appeals violated its own pronouncement in Cotnam v. Commissioner of Internal Revenue, 263 F.2d 119,122 (5th Cir. 1959), citing United States v. Safety Car Heating and Lighting Co., 297 U.S. 88, 56 S.Ct. 353,80 L.Ed.500 (1936), in which it stated that "the nature of the transaction underlying the judgment, not the judgment itself, controls the tax effects. . . ." It is clear that the debt did not arise when the divorce decree and judgment was entered, that decree merely set out, defined, and limited Mr. Perry's legal obligations for support. The debt did not arise until Mr. Perry failed to satisfy those obligations as defined by the judgment, and when petitioner was forced to expend her own capital assets and after tax dollars to pay those obligations on his behalf. To blindly

analogize those actual payments to uncollectible, unpaid wages or salary is untenable. This conflict, which has far reaching ramifications for millions of tax payers across the country, and, as affirmed by the Fifth Circuit, allows the Internal Revenue Service to a windfall at the expense of the single parent. It can only be resolved definitively by this Court.

II. THE FIFTH CIRCUIT ERRED, AS A MATTER OF LAW, BY ITS CONSTRUCTION OF THE APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE AND WITHOUT REGARD FOR THE INTENT OF CONGRESS.

The Fifth Circuit Courts of Appeal blindly followed the Swenson decision, supra, which treats support obligations as unpaid wages or salary. Swenson should be overruled for the following reasons:

1. The divorce decree or judgment merely defines and limits contractually the specific

obligations imposed as a matter of law on the supporting spouse. While the failure to pay those sums without the corresponding actual payments of support by the custodial parent may constitute a situation similar to unpaid wages or salary, the actual payment of the support obligations by the custodial parent is the creation of the debt and establishes the required "basis" for the deduction under the Internal Revenue Code.

2. With regards to alimony, the treatment of these support payments as "unpaid wages or salary" is a fiction that was created by Congress in 1942, when it transferred the tax liability from the paying spouse to the receiving spouse. These payments are not actually income to the receiving spouse, but are instead sums transferred to her as a conduit only for the payment of specific and individual support obligations such as food, clothing, shelter, etc.

3. While the support allocated in a divorce judgment is usually ear-marked in general terms

as being for the "support" of the children or spouse (i.e., food, clothing, shelter, etc.), the actual debts of the supporting spouse's legal obligation to provide such support arises as they are incurred by the children for specific items of support.

Therefore, petitioner is entitled to a deduction for the loss she sustained as a result of her ex-husband's failure to pay support payments under either Section 165 or Section 166 of the Internal Revenue Code.

A. Section 166

Prior to the divorce, Mr. Perry had the legal obligation to provide support for his spouse and children - to pay the landlord or mortgagee, the butcher, the baker, the grocer, the doctor, the druggist, etc. Upon separation and divorce, he still had those same obligations; however, his liability for those obligations was limited to the amounts stated in the agreement, which became a part of the judgment of divorce. Further, rather than make those payments directly, under the agreement,

petitioner was appointed to act as the disburser of the funds on his behalf to the landlord, the butcher, the baker, etc.

Mr. Perry could have agreed to continue to make direct payments to those persons providing food, shelter, clothing and education for his spouse and children (and in some cases the parties to a divorce agree to handle their family obligations in that manner); however, in the case before the court, it was agreed that the petitioner would be recipient of the funds necessary to fulfill Mr. Perry's legal obligations of support to his spouse and children, and she, in turn, had the fiduciary obligation to pay the creditors on his behalf. In Mandel v. Comm., 229 F.2d 328 (7th Cir. 1956), the court recognized the principle that the mother (custodial parent) was merely the conduit for proper disbursement of support payments.

As a practical matter, the custodial parent with whom the creditors deal on a daily basis, naturally look to the custodial parent

for payment for items for the support and maintenance. If she does not pay the rent, she and the children will be evicted. If she does not pay the gas and electricity, they will not have heat and lights.

The purpose of the judgment and agreement is to define for the present and future a mechanism for the payment of these obligations so the divorced parties can carry on their lives in an orderly fashion. It does not alter the basic obligation of the non-custodial parent to provide support for his spouse and children.

However, the moment the petitioner pays the rent, grocery bill, the utility bill, tuition, etc,, she succeeds to the rights of the creditors by subrogation to the extent of the payment made, subject to Mr. Perry's limit of liability as set out in the agreement and the judgment. La. Civil Code Article 2161 (1870). At that point in time, since Mr. Perry did not pay the support payments, petitioner had a separate and independent claim which could be

pursued by either going back to family court which rendered the judgment or by filing a civil suit on the subrogation action. Upon the making of these payments by petitioner, and because of his legal and contractual obligation of support, Mr. Perry became indebted unto her for specific debts and these debts exceeded $4,800.00 per year in each of the tax years in question. See also Pearlstein v. Mattes, 199 So. 151 (La. App. 1941). Therefore, petitioner has established all the elements necessary in order to be entitled to the maximum deduction for the tax years in question under Section 166 of the Internal Revenue Code. The debtor/creditor relationship is established both by virtue of the agreement/judgment and by virtue of legal subrogation. Iowa Southern Utilities Company v. United States, 348 F.2d 492 (Ct. Cl. 1965). The debts were worthless and uncollectible in each of the tax years in question, and her basis, the payment by her with after tax dollars of Mr. Perry's obligations, exceeded $4,800.00 per year. Imeson v. Commissioner, 487 F.2d 319 (9th

Cir. 1973) and cases cited therein.

B. Section 165

The obligation of support is more than merely paying a car note. Its essence is so serious (like the failure to report income), that the failure to meet that support obligation can result in imprisonment. When Mr. Perry received his pay check, he in effect was holding the support payments as a fiduciary. His failure to make those payments is a breach of his fiduciary duty to his spouse and children, and borders on a form of constructive conversion, embezzlement or theft. Therefore, when petitioner had to pay Mr. Perry's support obligations, she sustained a loss just as if someone entered into her house and had stolen the money out of her purse. Further, the loss she sustained is no different than if her automobile had been involved in an accident, was not insured, and she had to spend her after tax dollars to have it repaired. These are the types of casualties that Section 165 is intended to cover. This misuse of funds by Mr. Perry

caused petitioner a loss of $4,800.00 per year and that loss should qualify as a loss under Section 165 of the Internal Revenue Code. It certainly was a "casualty".

CONCLUSION

This Court should grant writs of certiorari for the following reasons:

1. To resolve the apparent conflict in legal reasoning between the Fifth Circuit Court of Appeals and the Ninth Circuit Court of Appeals, applicable to the issue before the Court;

2. To allow the petitioner and millions of other taxpayers similarly situated, their legal deduction under the Internal Revenue Code and prohibit the Internal Revenue Service from

receiving a windfall in situation, such as the petitioners, where the former spouse fails to pay child support and/or alimony payments.

Respectfully Submitted,

/s/ Carolyn Pratt Perry
CAROLYN PRATT PERRY,
Petitioner
Acadian Centre
Suite 420
2431 So. Acadian Thruway
Baton Rouge, Louisiana 70808
(504) 928-6898